

BEFORE THE FEDERAL ELECTION COMMISSION

SECRETARY

SENSITIVE

In the Matter of)

2006 DEC 18 12 4: 06

MUR 5776)

CASE CLOSURE UNDER THE

TALENT FOR SENATE COMMITTEE)

ENFORCEMENT PRIORITY SYSTEM

GENERAL COUNSEL'S REPORT

The Office of General Counsel has scored MUR 5776 as a low-rated matter. Under the Enforcement Priority System, matters that are low-rated are forwarded to the Commission with a recommendation for dismissal. The Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The facts giving rise to this complaint involve an advertisement that appeared in the St. Louis Metro Sentinel Journal, which allegedly lacked an appropriate disclaimer. Specifically, the advertisement stated that, "African Americans Turn-Out In Record Numbers To Support Re-Election Efforts Of U.S. Senator Jim Talent. We Need To Return Senator Talent To Congress. He Is A Good Friend." The advertisement contained a disclaimer on the bottom of the page that read, "Donated by A Friend." The complainant claims that since the advertisement failed to denote who paid for the message that it could have been produced in conjunction with the Talent for Senate Committee.

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2 The Talent for Senate Committee ("Committee") responded to the complaint by
3 denying that it was responsible for the advertisement. Additionally, the Committee noted
4 that the advertisement appeared to be protected by the ruling in *McIntyre v. Ohio Elections*
5 *Commission*, 514 U.S. 334 (1995).²

6 This Office contacted the St. Louis Metro Sentinel Journal to inquire about the costs
7 associated with running an advertisement similar to the one at issue in this case. The
8 newspaper runs a weekly edition and indicated that it charges \$2,500 for a full-page
9 advertisement and \$250 for each color up to \$1,000 for four colors. Thus, the total costs
10 associated with the advertisement in this case may have reached a maximum of \$3,500.
11 Accordingly, in reviewing the complaint in this case, we believe that pursuing this matter
12 would require the Commission to expend staff time and resources for what appears to be a
13 case involving a nominal advertising expenditure. Therefore, in furtherance of the
14 Commission's priorities and resources relative to other matters pending on the Enforcement
15 docket, the Office of General Counsel believes that the Commission should exercise its
16 prosecutorial discretion and dismiss the matter. *See Heckler v. Chaney*, 470 U.S. 821 (1985).

17 **RECOMMENDATION**

18 The Office of General Counsel recommends that the Commission dismiss
19 MUR 5776, close the file effective two weeks from the date of the Commission vote, and
20 approve the appropriate letters. Closing the case as of this date will allow CELA and


² This case involved the interpretation of a state law, which prohibited the distribution of campaign literature that did not contain the name and address of the person or campaign official issuing the literature. The facts involved a leaflet that was distributed, which purported to express the views of "Concerned Parents And Tax Payers," who were opposing a school tax levy. The Supreme Court held that the State's prohibition on the distribution of anonymous campaign material abridged the freedom of speech right protected in the First Amendment of the United States Constitution.

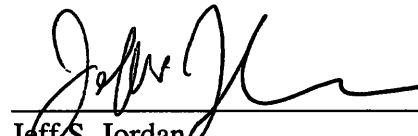
General Law and Advice the necessary time to prepare the closing letters and the case file for
the public record.

James A. Kahl
Deputy General Counsel

12/18/06
Date

BY:


Gregory R. Baker
Special Counsel
Complaints Examination
& Legal Administration


Jeff S. Jordan
Supervisory Attorney
Complaints Examination
& Legal Administration

Attachment:
Narrative in MUR 5776

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3
4 **MUR 5776**
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6 **Complainant:** Corey Dillon
7 Executive Director, Missouri Democratic Party
8

9 **Respondents:** Talent for Senate Committee and
10 Shirley J. Simmons, as Treasurer
11 James Matthes Talent
12 Unknown Respondent
13

14 **Allegations:** Complainant alleges that a newspaper advertisement that appeared in the
15 St. Louis Metro Sentinel Journal, which advocated for the election of James Talent for
16 Senate, lacked an appropriate disclaimer. Specifically, the advertisement stated that,
17 "African Americans Turn-Out In Record Numbers To Support Re-Election Efforts Of
18 U.S. Senator Jim Talent. We Need To Return Senator Talent To Congress. He Is A
19 Good Friend." The advertisement contained a disclaimer on the bottom of the page that
20 read, "Donated by A Friend."
21

22 **Response:** The Talent for Senate Committee responded to the complaint and claimed
23 that it did not authorize or coordinate the advertisement. Furthermore, the advertisement
24 appeared to be protected under a Supreme Court ruling.
25

26 **Date complaint filed:** July 27, 2006
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28 **Response received:** August 18, 2006
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